

**Notice of Allowability**

Application No.

10/821,241

Examiner

Karen E. Toth

Applicant(s)

KOH, STEVE

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the remarks filed 6 September 2006.
2. ☒ The allowed claim(s) is/are 2-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

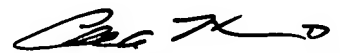
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Charles A. Marmor, II  
STE, Art Unit 3735

## DETAILED ACTION

### ***Allowable Subject Matter***

1. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to anticipate or make obvious the method of claims 2-3, 5-7, and 10-17, including, *inter-alia*, detecting non-obstructive apnea by evaluating blood pressure at a plurality of beats, calculating the change in blood pressure between beats, calculating the change in the change in the blood pressure, identifying times when the change is negative and the change in the change is less than a threshold value, and using the results to determine the onset of apnea.

Cho (US Patent 6641542) discloses a method for monitoring apnea comprising monitoring blood pressure, but does not specifically disclose the steps of diagnosing apnea based on the changes and changes in the changes of blood pressure.

The prior art of record fails to anticipate or make obvious the method of claims 8-9, including, *inter-alia*, while monitoring blood pressure to detect non-obstructive apnea, detecting respiratory motion and perform the apnea detection steps only when no motion is detected.

The prior art of record fails to anticipate or make obvious the structure and method of claims 4 and 18-32, including, *inter-alia*, detecting and diagnosing non-obstructive apnea by monitoring beat-to-beat changes in diastolic blood pressure.

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Cho discloses monitoring blood pressure in order to detect and diagnose and detect non-obstructive apnea. However, Cho monitors the changes between systolic and diastolic pressure to perform the detection and diagnosis.

### ***Response to Arguments***

2. Applicant's arguments, see remarks, filed 6 September 2006, with respect to claims 2-32 have been fully considered and are persuasive. The rejection of claims 2-32 has been withdrawn.

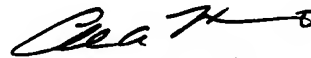
### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen E. Toth whose telephone number is 571-272-6824. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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